



United States Department of the Interior

NATIONAL PARK SERVICE

1849 C Street, N.W.
Washington, D.C. 20240



August 29, 2014

Via Certified Mail

Re: **American Paint Works, 420 Josephine St., New Orleans, Louisiana**
Project Number: **23574**

Dear

I have concluded my review of your appeal of the decision of Technical Preservation Services (TPS), denying certification of the rehabilitation of the property cited above. The appeal was initiated and conducted in accordance with Department of the Interior regulations (36 CFR Part 67) governing certifications for Federal income tax incentives for historic preservation as specified in the Internal Revenue Code. I thank you,

for speaking with me via conference call on April 24, 2014, and for meeting with me in Washington on August 7, 2014; also participated in this latter conversation. The discussions provided a detailed account of the project.

After careful review of the complete record for this project, including the information submitted following the appeal meetings, I have determined that the rehabilitation of the American Paint Works is not consistent with the historic character of the property and the historic district in which it is located, and that the project does not meet Standard 2 of the Secretary of the Interior's Standards for Rehabilitation (the Standards). However, I have further determined that the project would meet the Standards if (and only if) you satisfactorily complete the remedial work described in this letter.

Constructed in 1908, the American Paint Works Building was certified as contributing to the significance of the Lower Garden Historic District on June 23, 2009. The completed rehabilitation of this "certified historic structure" was found not to meet the Standards owing to the repointing work undertaken. As TPS noted, the Historic Preservation Certification Application Part 2—Description of Rehabilitation stated that "All masonry will be re-pointed using an appropriate mortar mix. All repairs will comply with Secretary of the Interior's Standards as described in the Preservation Brief." The reference is to the NPS publication "*Preservation Brief 2: Repointing Mortar Joints in Historic Masonry Buildings*" ("PB 2").

As the opening paragraph of PB 2 notes: "Properly done, repointing restores the visual and physical integrity of the masonry. Improperly done, repointing not only detracts from the appearance of the building, but may also cause physical damage to the masonry units themselves." Upon receipt of the Request for Certification of Completed Work—Part 3," TPS found that the repointing was, in fact, "improperly done."

I agree with TPS' assessment that the repointing shown in the photographs documenting the completed work does "detract from the appearance of the building" to the point that it compromised the historic character of the property. The new mortar, apparently smeared onto the face of the bricks, also made the joints appear much wider than before. As TPS noted at length, the overall appearance of the building changed; the repointing left a white haze over the surface of the building, making the brick facades appear pink when viewed from a distance. As a result, the work caused the rehabilitation to contravene Standards 2 and 6. Standard 2, addressing the overall historic character of a resource, states: "*The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.*" Standard 6, addressing the treatment of deteriorated features (such as the existing pointing, which had reached the end of its useful life), states in part: "*Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials....*"

During our April 24 conference call and in e-mail exchanges following that conversation, you proposed to clean test patches of the masonry in the expectation that the cleaning would eliminate or greatly reduce the white haze left on the surface of the American Paint Works. I stated in my e-mail of May 7, 2014, that the cleaning test patches in the manner presented "is an acceptable and appropriate approach to resolving that particular issue," although there were other "problematic issues" with the repointing that needed to be addressed. Before I could comment on the photographs of the test patches sent by _____ of the Louisiana State Historic Preservation Office, _____ notified me on July 11, 2014, that the building had been cleaned on three sides. You then requested a meeting to discuss the situation, held on August 7, 2014, at which we discussed the method employed in cleaning the three elevations, and examined before and after photographs of the results. I requested additional photographs because the views shown at the meeting were not of the same areas before and after cleaning. The requisite photographs were sent with _____ e-mail of August 11, 2014.

After a thorough review, I find that the cleaning completed to date has greatly lessened the unfortunate effects of the repointing. It has largely eliminated the noticeable "white haze" of mortar from the brick from the elevations cleaned to date. However, the "haze" remains on the north elevation, and thus the project cannot be approved as meeting the Standards in its present state.

Additionally, as we discussed during our meeting, the light color of the window surrounds in place of the dark historic color overemphasizes the slightly smaller dimensions of the new windows and the correspondingly larger dimensions of the surrounds themselves. Consequently, I have determined that the color of the window surrounds also causes the rehabilitation to conflict with Standard 2, quoted above. Although this issue was not cited by TPS in its denial decision, the regulations state that "*The Chief Appeals Officer may base his decision in whole or part on matters or factors not discussed in the decision appealed from.*" [36 CFR 67.10(c)].

Consequently, I concur with TPS that the rehabilitation as first completed—and as modified since—cannot be approved. However, I have identified the following remedial measures that could bring the project into conformance with the Standards.

- You have already completed remedial work to remove the mortar haze from the east, west and south elevations. The most recent before and after photographs, submitted August 11, 2014, confirm that the work was successful in removing the mortar haze and reducing the apparent joint size of the repointed areas, thus removing those impediments to certification.
- The north elevation must be cleaned in the same manner as undertaken on the other three elevations. I have considered the claim that doing so will be difficult, given that there is a lower building adjoining the American Paint Works on that side. However, since the building is located in a low-rise area, the north elevation is as prominently visible as the other three elevations and thus must be treated equally. Further, the regulations note: *"All elements of the rehabilitation project must meet the Secretary's ten Standards for Rehabilitation (§ 67.7); portions of the rehabilitation project not in conformance with the Standards may not be exempted."* [36 CFR 67.6(b)(1)].
- The window surrounds must be painted to match the darker color of the new windows, as shown in the mock-up photograph accompanying e-mail of August 11, 2014.

Together, these changes will satisfactorily address the remaining objections to the work as completed and will bring the overall project into conformance with the Standards.

If you wish to pursue certification by performing the remedial measures described above, then please advise me in writing of that fact within 30 days after your receipt of this letter, at the same time providing me with a schedule for the timely completion of the work. You must also submit to me, after you complete the remedial work, an amended Historic Preservation Certification Application Part 3—Request for Certification of Completed Work, including photographs of the completed work. Please also provide the Louisiana State Historic Preservation Office with a copy of your amended Part 3 application. Upon approval of the amended Part 3 application, I will issue the final decision regarding your appeal, designating the property a "certified rehabilitation."

If I do not hear from you within 30 days after your receipt of this letter, then I will assume that you do not wish to pursue certification, and I will issue a brief decision letter affirming TPS's previous decision denying certification for the project. Questions concerning the specific tax consequences of this decision or interpretations of the Internal Revenue Code should be addressed to the appropriate office of the Internal Revenue Service.

If you have any questions about this letter, please call me at (202) 354-2118.

Sincerely,



John A. Burns, FAIA
Chief Appeals Officer
Cultural Resources

cc: SHPO-LA
IRS